

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CYTOLOGIX CORPORATION,

Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.,

Defendant.

Civil Action No. 04-11783 (RWZ)

PLAINTIFF'S ASSENTED-TO MOTION TO IMPOUND

Pursuant to Local Rule 7.2, Plaintiff hereby moves for permission to file certain materials under seal.

Today, Plaintiff CytoLogix Corporation has filed a Motion for Remaining Claim Construction and Partial Summary Judgment of Infringement. Together with the Motion, CytoLogix filed redacted versions of a Memorandum in Support, a Local Rule 56.1 Statement of Material Facts, and a Declaration attaching exhibits. By this Motion to Impound, CytoLogix seeks permission to file unredacted versions of these materials under seal.

Exhibits C and I-N to the Declaration have been designated "Confidential" or "Confidential—Attorneys' Eyes Only" by the Defendant, Ventana Medical Systems, Inc. ("Ventana"), pursuant to the Court's Stipulated Protective Order.

Prior to filing the instant Motion to Impound, CytoLogix asked Ventana if these materials could be filed publicly, or if they should be maintained under seal. Ventana requested that the materials be filed under seal because they include Ventana confidential information, including descriptions of software and electrical schematics of Ventana's BenchMark XT and LT.

WHEREFORE, CytoLogix requests that the Court permit CytoLogix to file the following materials under seal:

- (a) Exhibits C and I-N to the Declaration of David A. Simons Attaching Exhibits in Support of CytoLogix's Motion for Remaining Claim Construction and Partial Summary Judgment of Infringement;
- (b) CytoLogix's Memorandum in Support of Its Motion for Remaining Claim Construction and Partial Summary Judgment of Infringement (which cites to and quotes from the confidential Exhibits C and I-N); and
- (c) CytoLogix's LR 56.1 Statement of Material Facts in Support of Its Motion for Remaining Claim Construction and Partial Summary Judgment of Infringement (which cites to and quotes from the confidential Exhibits C and I-N)

These materials should remain under seal until the conclusion of the litigation, or until further order of the court. At the conclusion of the litigation, the sealed materials should be returned to counsel of record for either party.

LOCAL RULE 7.1(A)(2) CERTIFICATION

On September 25 and 26, 2007, counsel for Plaintiff, David A. Simons, conferred with counsel for Ventana, Roger Chin, by telephone and then by email concerning handling of these confidential materials. Ventana requested that the materials be filed under seal and assented to this motion.

Dated: September 27, 2007

/s/ Michael E. Zeliger

Michael E. Zeliger (BBO # 633654)
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing PLAINTIFF'S ASSENTED-TO MOTION TO IMPOUND to be served upon counsel of record this 27th day of September, 2007 by filing it with the Court's ECF system.

/s/ David A. Simons